

November 9, 2018

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Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2

Re: Canadian Radium and Uranium Site

Dear Margo:

Thank you for meeting with our firm and our clients last week to discuss EPA's proposed investigation of our client's property. As discussed, my clients continue to agree to provide access to the EPA so it can conduct its investigation, but wish to have confirmation as to the terms upon which access will be granted, which such terms are requested so as to minimize the disturbance and interference with the existing tenant's operation on the property. As you are aware, the tenant is a car dealership that sells and services cars at the property.

To summarize, our client's grant of access includes the following:

- 1) That our client and the tenant be named as additional insured on the contractor's and any subcontractor's general liability and worker's compensation insurance and proof of same be provided in advance of work commencing.
- 2) The air canisters for the radon testing be installed and removed during the non-operating hours of the tenant. We previously provided you with the tenant's operating hours and it does not appear this request is onerous. For example, a 72 hour test could be implemented in such a manner that the canisters are installed on a Wednesday evening after 8:00 p.m. and collected on a Sunday morning before 11:00 a.m.

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- 3) As it appears the gamma ray detector using the "buggy" could be performed in 2 to 3 hours, that work can be completed during overnight hours or even commence on a Sunday at 7:00 a.m. and be completed prior to the tenant's operations commencing at 11:00 a.m.
- 4) Once the results of the radon and gamma survey testing are received and provided to our client, we can then discuss a schedule for installing the soil borings, should such additional work be necessary. We request the work be performed during overnight hours. Our client is agreeable to paying for and providing portable lights.

During our meeting, a concern was expressed that working at night is not as safe for EPA's contractor. We disagree. No one disputes that night work occurs at construction sites and highways on a regular basis. We believe working at night is safer for EPA's contractor and the tenant's workers and customers. The property is an active automobile dealership where cars are serviced, sold, new vehicles delivered to customers and owners recharge their electric car. At any given time during the day, there are approximately 30 to 40 employees at the site, with an equal number of customers present. In addition to the pedestrian traffic of the employees and customers, cars are entering and exiting the site throughout the day. Employees move cars within the site to bring them into the service bays or to make room for customers to collect cars or receive new inventory.

The suggestion that working during the night is not safe, when customers and employees are not walking on the site and cars are not being driven onto and off the property, compared to working on an active site during the day is not credible. It appears the only reason EPA will not authorize the work to be performed off hours is due to money; not safety.

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Our client believes these accommodations are reasonable and should be made by EPA and do not interfere with EPA having access to our client's property. Our clients submit they have been extremely reasonable in trying to balance EPA's request for access with the needs of theirs and their tenant. We trust EPA will accommodate our request and accept the access that has been granted and I look forward to hearing from you. Thank you for your attention.

Very truly yours,



Nicholas M. Ward-Willis

NMW/sj